

# COPY

Attorney Docket No. 25231-20060.20

COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR CONTINUATION-IN-PART APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: A  
**COMPOSITION FOR INDUCING HUMORAL ANERGY TO AN IMMUNOGEN  
COMPRISING A T CELL EPITOPE-DEFICIENT ANALOG OF THE IMMUNOGEN  
CONJUGATED TO A NONIMMUNOGENIC VALENCY PLATFORM MOLECULE,** the specification of which

(check one)  is attached hereto  
 was filed on September 8, 1993

as application serial no. 08/118,055 and was amended on \_\_\_\_\_ (if applicable).

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

"(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose

all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability."

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than six months prior to this application.

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) and (b)

set forth above which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.: 07/652,648

Filing Date: 8 February 1991

Status (patented, pending, abandoned): Pending

As to the subject matter of this application which is common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said earlier application, or in public use or on sale in the United States of America more than one year prior to said earlier application; that said common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of said earlier application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said earlier application; and that the earliest application(s) for patent or inventor's certificate on said invention filed by me or my legal representatives or assigns in any country foreign to the United States of America is identified below, as well as all other such applications (if any) filed more than twelve months prior to the filing date of this application:

EPO	SN 923010367	Filing date: 2/7/92
Ireland	SN 920419	Filing date: 2/7/92
PCT	SN PCT/US92/00975	Filing date: 2/4/92
Australia	SN 1411892	Filing date: 2/4/92
Canada	SN 2076648	Filing date: 2/4/92
Japan	SN 4505775	Filing date: 2/4/92
Korea	SN 92802481	Filing date: 2/4/92

The priority of the earliest application(s) (if any) filed within a year prior to said pending prior application is hereby claimed under 35 U.S.C. § 119.

As to the subject matter of this application which is not common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States of America more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an inventor's certificate issued in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to the date of this application, and that the earliest application(s) for patent or inventor's certificate on said subject matter filed by me or my legal representatives or assigns in any country foreign to the United States of America is

identified below, as well as all other such application(s) (if any) filed more than twelve months prior to the filing date of this application:

None

The priority of the earliest application(s) (if any) filed within a year to this application is hereby claimed under 35 U.S.C. § 119.

I hereby appoint the following attorneys and agents to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

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MORRISON & FOERSTER  
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Palo Alto, CA 94304-1018

Address all telephone calls to: Freddie K. Park at 415-813-5600.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Signature: Stephen M. Coutts

Date 10/29/93

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Signature: David S. Jones

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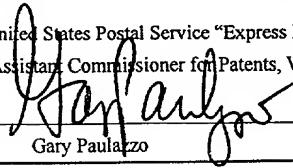
PATENT  
Docket No. 252312006001

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

  
Gary Paulazzo

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the application of:

Stephen M. Coutts et al.

Serial No.: To Be Assigned

Filing Date: Herewith

For: COMPOSITION FOR INDUCING  
HUMORAL ANERGY TO AN  
IMMUNOGEN COMPRISING A T CELL  
EPITOPE-DEFICIENT ANALOG OF THE  
IMMUNOGEN CONJUGATED TO A  
NONIMMUNOGENIC VALENCY  
PLATFORM MOLECULE

Examiner: To Be Assigned

Group Art Unit: To Be Assigned

**ASSOCIATE POWER OF ATTORNEY**

Box PATENT APPLICATION  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Please recognize the following attorneys and agents:

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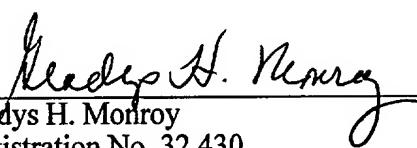
whose address is Morrison & Foerster LLP, 755 Page Mill Road, Palo Alto, California 94304-1018, as my associates in the above-identified patent application to inspect the file, to prepare and file amendments, to inspect and make copies thereof and of any papers in any appellate or *inter partes* proceedings in which the application may be or become involved, and generally to conduct all business in the United States Patent and Trademark Office relating to the prosecution of the application or any application that claims priority from this application provided that if any one of said attorneys or agents ceases being affiliated with the law firm of Morrison & Foerster as partner, employee or of counsel, such attorney's or agent's appointment as attorney or agent and all powers derived therefrom shall terminate on the date such attorney or agent ceases being so affiliated.

Please direct all communications to:

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Respectfully submitted,

Dated: May 2, 2000

  
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